

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ESTATE OF HARRY SMITH, III, HARRY
SMITH, JR., AND ROSLYN WOODARD
SMITH,

Plaintiffs,

v.

WILMINGTON POLICE DEPARTMENT,
MICHAEL SZCZERBA, and ONE OR
MORE JOHN DOES,

Defendants.

Case No. 04-1254-GMS

DEFENDANTS' MOTION FOR PARTIAL DISMISSAL

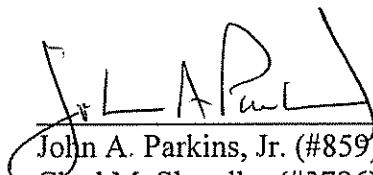
Defendants move to dismiss the following claims asserted in the Amended Complaint:

1. The plaintiff estates' claims based upon the Fourteenth Amendment.
2. The individual plaintiffs' claim based upon the Fourth Amendment.
3. The individual plaintiffs' claim based upon the Fourteenth Amendment.

The reasons supporting this motion are set forth in the letter memorandum filed herewith.

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Dated: September 29, 2005

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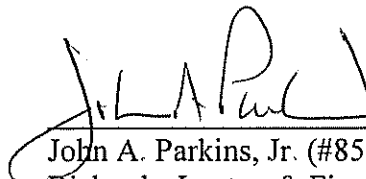
CERTIFICATE OF SERVICE

I hereby certify that on September 29, 2005, I electronically filed the foregoing document with the Clerk of Court using CM/ECF which will send notification of such filing(s) and Hand Delivered to the following:

Kester I.H. Crosse, Esquire
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I hereby certify that on September 29, 2005, I have sent by U.S. Regular Mail, the foregoing document to the following non-registered participants:

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